



# PUBLIC NOTICE

**Federal Communications Commission**  
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**Washington, D.C. 20554**

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**DA 15-1167**  
**October 13, 2015**

**WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON REQUESTS OF  
ZENFI NETWORKS, INC. AND GENEVA COMMUNICATIONS LLC FOR WAIVER TO  
AUTHORIZE SERVICE IN THE 102-109.5 GHZ BAND**

**WT Docket No. 15-245**

**Comments due: November 12, 2015**  
**Reply Comments due: November 30, 2015**

With this Public Notice, the Wireless Telecommunications Bureau (Bureau) seeks comment on two waiver requests for operations under Part 101 of the Commission's rules, as described below. Specifically, ZenFi Networks, Inc. (ZenFi)<sup>1</sup> and McKay Brothers, LLC (McKay)<sup>2</sup> seek waivers of certain procedural and technical rules which would extend the authorization of their respective licenses to allow operations in the 102-109.5 GHz band (Waiver Requests).<sup>3</sup> Both ZenFi and McKay (through a subsidiary) hold nationwide, non-exclusive license for the Millimeter Wave Radio Service.<sup>4</sup>

ZenFi seeks a waiver of the applicable Part 1 and Subpart Q of Part 101 rules to permit use of the 102-109.5 GHz band under its existing Millimeter Wave Radio Service license and to register individual point-to-point links at locations within the New York City, Chicago, Washington, DC, and San Francisco metropolitan markets using the regulatory framework established for registering links in the 71-76 GHz, 81-86 GHz, and 92-95 GHz bands (70/80/90 GHz bands).<sup>5</sup> ZenFi seeks to use the 102-109.5 GHz band to provide high-speed, low latency point-to-point data streams to users.<sup>6</sup> McKay seeks a similar waiver, to allow its subsidiary Geneva to operate such links in and around Chicago, New York City, and northern New Jersey "[i]n the event the Commission elects not to proceed with issuing an NPRM for the 100 GHz band."<sup>7</sup>

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<sup>1</sup> ZenFi specializes in providing high-performance optical network solutions to large enterprises, wireless mobile network operators, and telecommunications service providers over a private, dedicated fiber optic network. ZenFi Waiver Request at 1.

<sup>2</sup> McKay is a specialty microwave telecommunications company.

<sup>3</sup> ZenFi Waiver Request.

<sup>4</sup> See File No. 0006884202, Waiver Request (filed July 22, 2015) ("ZenFi Waiver Request"); File No. 0006910034, Ex Parte Support of Petition for Rulemaking or, In the Alternative, Request for Waiver, RM-11713 (filed Aug. 10, 2015) ("Geneva Waiver Request").

<sup>5</sup> See ZenFi Waiver Request at 1.

<sup>6</sup> ZenFi Waiver Request at 5.

<sup>7</sup> Geneva Waiver Request at 1, 5-6.

The 102-109.5 GHz band is currently allocated on a co-primary basis to fixed use, the radio astronomy service (RAS), and space research (passive).<sup>8</sup> The space research (passive) allocation is limited in the United States to “space based radio astronomy.”<sup>9</sup> ZenFi states that allowing this proposed use of the 102-109.5 GHz band will not negatively impact incumbent RAS services because “use of the band for these services is limited,” and ZenFi’s proposed service areas are geographically distant from current and expected future RAS observatories.<sup>10</sup> McKay similarly states that its proposed operations are “far-removed” from current operations in the band.<sup>11</sup>

The 102-109.5 GHz band is currently the subject of a petition by the Battelle Memorial Institute, which asks the Commission to propose rules allowing non-Federal fixed use of the band.<sup>12</sup> ZenFi and Geneva seek the requested waivers in order to begin operations in the band pending the completion of the rulemaking.<sup>13</sup> ZenFi states that granting the Waiver Request “will make [ZenFi’s] newly developed technology ... available in the near term in the four identified metropolitan markets while the Commission considers amending the rules in accordance with Battelle’s rulemaking petition.”<sup>14</sup>

Requests for waiver of rules governing Wireless Radio Services are governed under Section 1.925 of the Commission’s rules.<sup>15</sup> Accordingly, we seek comment on the ZenFi and Geneva Waiver Requests.

## **Procedural Matters**

### **A. Filing**

Interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed either by filing paper copies or using the Commission’s Electronic Comment Filing System (ECFS). *See generally* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998). When filing comments, please reference WT Docket No. 15-XXX.

- **Electronic Filers:** Comments may be filed using the Internet by accessing ECFS: <http://fcc.gov/ecfs/>. Follow the instructions for submitting comments.
  - Generally, only one copy of an electronic submission must be filed and should include the docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number.
  - Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, “get form.” A sample

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<sup>8</sup> See 47 C.F.R. § 2.106; Amendment of Part 2 of the Commission’s rules to Realign the 76-81 GHz band and the Frequency Range Above 95 GHz Consistent with International Allocation Changes, *Report and Order*, 19 FCC Rcd 3212 (2004).

<sup>9</sup> See 47 C.F.R. § 2.106, note 5.562B.

<sup>10</sup> ZenFi Waiver Request at 2-3.

<sup>11</sup> Geneva Waiver Request at 6.

<sup>12</sup> Battelle Memorial Institute Petition for Rulemaking to Adopt Fixed Service Rules in the 102-109.5 GHz Band, RM-11713 (filed Feb. 6, 2014).

<sup>13</sup> See ZenFi Waiver Request at 3; Geneva Waiver Request at 7.

<sup>14</sup> ZenFi Waiver Request at 3.

<sup>15</sup> 47 C.F.R. § 1.925.

form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing.

- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Office of the Secretary, Federal Communications Commission. Paper filings can be submitted by the following methods:
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail): Mail to 9300 E. Hampton Dr., Capitol Heights, MD 20743.
  - U.S. Postal Service (First-class, Express and Priority): Mail to 445 12th St., S.W., Washington, DC 20554.
  - Hand-delivered/Courier: Deliver to 445 12th St., S.W., Room TW-A325, Washington, DC 20554. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Envelopes and boxes must be disposed of before entering the building.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

## **B. Availability of Documents**

Documents in WT Docket No. 15-245 will be available for public inspection either through ECFS: <http://apps.fcc.gov/ecfs/>, or during regular business hours in the FCC Reference Center (CY-A257) at the Federal Communications Commission, 445 12th Street, SW., Washington, DC, 20554. These documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

## **C. Ex Parte Rules—Permit-But-Disclose Proceeding**

Unless otherwise provided, requests for waiver of the Commission's Rules are subject to treatment by the Commission as restricted proceedings for *ex parte* purposes under Section 1.1208 of the Commission's Rules, 47 C.F.R. § 1.1208. Because of the policy implications and potential impact of this proceeding on persons not parties to these Waiver Requests, we believe it would be in the public interest to treat this case as a permit-but-disclose proceeding under the *ex parte* rules. See Sections 1.1200(a), 1.1206 of the Commission's Rules, 47 C.F.R. §§ 1.1200(a), 1.1206. Therefore, subsequent to the release of this Public Notice, *ex parte* presentations that are made with respect to the issues involved in the subject Waiver Requests will be allowed but must be disclosed in accordance with the requirements of Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b). Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with Section 1.1206(b). In proceedings governed by Section 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through

the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

**FOR FURTHER INFORMATION CONTACT:** Catherine Schroeder, Broadband Division, Wireless Telecommunications Bureau at (202) 418-1956, or by e-mail at [catherine.schroeder@fcc.gov](mailto:catherine.schroeder@fcc.gov).

Action by the Chief, Broadband Division, Wireless Telecommunications Bureau.

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